IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 6518 OF 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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SURENDRABHAI JASHWANTLAL SHAH - Petitioner(s)
Versus
STATE OF GUJARAT & ORS. - Respondent(s)

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Appearance :
None for Petitioner(s).
Shri A.Y. Kogje, Asst. Government Pleader for Respondent(s) : 1, 3 - 4.
Shri A.D. Oza for Respondent(s) : 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 22/02/2007

ORAL JUDGMENT

The short facts necessary for disposal of the present petition are that on 12th May, 1980, Aradhana Education Trust was registered as

a Public Trust. It started a school in the name of “Shri New Aradhana Kanya Vidyalaya” and it was managed by the Trust. The school was a secondary school. The petitioner applied for converting the education system in co-education system. On 24th November, 1988, the District Education Officer recommended to the Government to accord the permission. On 7th April, 1990, the Trust again made an application to the Education Minister to reconsider the previous decision of the authority in not granting permission to convert the school into co-education system. Later on, the application came to be considered by the Education Board and ultimately, the permission to convert to co-education system was accorded on 22nd August, 1980. It appears that immediately after one year, the permission was recalled and cancelled by an Order dated 12th August, 1991. Being aggrieved by the said order the petitioner-Trust is before this Court.

2. From the submissions made in the Writ Application, it appears that before cancelling or withdrawing the permission, no opportunity of hearing was afforded to the petitioner and as such, there was blatant violation of the principles of natural justice.

3. I enquired from Shri A.D. Oza as to what he had to say, to the query, he submitted that they had done nothing in the matter because the earlier permission was accorded by the Government and they had simply observed the order. He also submits that the permission was not cancelled by respondent No.4, but, was cancelled by the Government. Therefore, the Government has to justify its order.

4. On being asked that whether the permission earlier accorded was withdrawn after affording an opportunity of hearing to the petitioner, Shri Kogje, learned Counsel for the State, after going through

the papers, submits that no such opportunity was granted.

5. In view of the undisputed facts that no opportunity of hearing was afforded to the petitioner before cancellation of the earlier order, I must hold that the order passed by the State Government on 12th August, 1991, recalling/withdrawing the permission, is bad in law. It deserves to and is, accordingly, quashed. It is, however, made clear that if the State still wants to take further action in the matter, then, it would be free to take the action after affording an opportunity of hearing to the petitioner. The petition is allowed. Rule is made absolute to the aforesaid extent. No costs.

[R.S.Garg, J.]

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